United Nations CERD/C/RWA/CO/18-20

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the eighteenth to twentieth periodic reports of Rwanda*

1. The Committee considered the eighteenth to twentieth periodic reports of Rwanda, submitted in a single document (CERD/C/RWA/18-20), at its 2428th and 2429th meetings (CERD/C/SR.2428 and 2429), held on 28 and 29 April 2016. At its 2441st meeting, held on 10 May 2016, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined eighteenth to twentieth periodic reports of the State party, which include responses to the concerns raised by the Committee in its previous concluding observations. The Committee wishes to commend the State party for its regularity in reporting and welcomes the open and constructive dialogue held with its delegation.

B. Positive aspects

3. The Committee welcomes the following legislative and policy measures taken by the State party:

(a) Law No. 54/2011 of 14 December 2011 relating to the rights and protection of the child;

(b) Law No. 04/2012 of 17 February 2012 governing the organization and functioning of national non-governmental organizations;

(c) Law No. 19/2013 of 25 March 2013 consolidating the independence of the National Commission for Human Rights;

(d) Law No. 13 ter/2014 of 21 May 2014 on refugees;

(e) The Vision 2020 programme.

* Adopted by the Committee at its ninety-ninth session (25 April-13 May 2016).

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4. The Committee notes with satisfaction the State party's accession, on 30 June 2015, to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

5. The Committee is also pleased to note that the State party is hosting a significant number of refugees (140,000) and has granted prima facie recognition of refugee status to all Burundian asylum seekers. It also highlights the State party's economic performance in several areas, including education and health, which should facilitate the enjoyment, without discrimination, of the rights provided for in the Convention.

C. Concerns and recommendations

Definition of discrimination

6. The Committee reiterates its concern that article 16 of the State party's Constitution does not contain a definition of racial discrimination for all the different criteria and on the grounds of national origin and descent, as provided in article 1 of the Convention (art. 1).

7. **The Committee recommends that the State party incorporate in article 16 of the Constitution and in its national legislation a definition of racial discrimination which includes all the criteria and grounds set out in article 1 of the Convention.**

Discrimination on the basis of nationality

8. The Committee is disturbed by the distinction made by the State party in its most recent population census between Rwandans and Rwandans with dual nationality. The Committee is concerned that such a distinction could give rise to discriminatory practices contrary to the Convention (arts. 1 and 2).

9. **The Committee recommends that the State party take steps to ensure that this distinction between Rwandans does not lead to discriminatory acts or practices in the enjoyment of the rights contained in the Convention.**

Provision of data

10. The Committee takes note of the explanations provided in the State party's report of the reasons that prevent it collecting data referring to the ethnicity of persons constituting its population, including the fact that the Rwandan population is now formed of a single national group sharing the same language and the same culture. The Committee nevertheless regrets the absence in the State party report of statistical and socioeconomic data on the "historically marginalized groups", in particular the Batwa, and on non-citizens residing in the territory of the State party.

11. **In the light of its general recommendations No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention and No. 30 (2004) on discrimination against non-citizens, and paragraphs 10 to 12 of its Guidelines for the CERD-Specific document (CERD/C/2007/1), and with reference to Sustainable Development Goal No. 17, the Committee recommends that the State party provide any available information from socioeconomic studies on the "historically marginalized groups", in particular the Batwa, as well as on non-citizens living in its territory, disaggregated by sex and nationality, to allow the Committee to assess the extent to which these groups enjoy their rights under the Convention on an equal footing with the rest of the population.**

Compatibility of criminal legislation with article 4 of the Convention

12. The Committee notes that the State party is in the process of revising its Criminal Code. The Committee nevertheless remains concerned that the State party's criminal legislation, in particular its Criminal Code, does not fully cover all of the offences provided for in article 4 of the Convention (art. 4).

13. **Recalling its general recommendations No. 1 (1972), No. 7 (1985) relating to the implementation of article 4 and No. 15 (1993) on article 4 of the Convention, according to which article 4 is of a preventive and mandatory nature, the Committee recommends that the State party speed up the process of revision and adoption of its Criminal Code and include in it the necessary provisions to give full effect to article 4 of the Convention.**

Situation of the Batwa

14. While taking note of the explanations provided by the State party, the Committee remains concerned about the population decline among the Batwa, a "historically marginalized group". It also remains concerned about persistent reports of negative stereotypes, stigmatization of and discrimination against the Batwa in several areas, and particularly that: (a) the literacy rate for Batwa children remains very low in comparison with that of the rest of the population, and obstacles remain to the effective access of Batwa children to education; (b) the Batwa experience difficulties in practice in gaining effective access to health and social services, notably because of the requirement to pay user fees; (c) despite the efforts of the State party, the Batwa are discriminated against with regard to access to employment and working conditions; (d) not all Batwa enjoy adequate housing, despite the programme established by the State party. The Committee also regrets that the State party has not provided statistical data to make it possible to assess the impact on the living conditions of the Batwa of the various plans and programmes established by the State party, or on the Batwa's effective participation in the establishment and implementation of monitoring mechanisms for such plans and programmes (art. 5).

15. **Recalling its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, and taking into account the fact that the State party considers the Batwa as a "historically marginalized group", the Committee recommends that the State party take the special measures indicated below with the aim of bringing the Batwa to a level comparable to that of the rest of the population and combating the stereotypes, marginalization and poverty of which they are still victims. In particular, the Committee recommends that the State party should:**

(a) Combat stereotypes and the marginalization to which the Batwa are subject, ensure the effective implementation of its legislation to combat racial discrimination and ensure that, in the decentralized governance put in place by the State party, the Batwa play an effective part and are involved in the implementation and monitoring mechanisms and benefit equally with the rest of the population from the various plans and programmes implemented by the State party;

(b) Ensure that Batwa children do not face barriers in access to primary and secondary education and strengthen measures designed to avoid a high dropout rate, especially among girls;

(c) Continue to raise the awareness of Batwa adults of the importance of education;

(d) Ensure that all Batwa have access to adequate and accessible housing;

(e) Remove all obstacles to effective access for the Batwa to health care, health services and social protection in order to avoid the extinction of this population group;

(f) Strengthen vocational training for the Batwa, with a view to combating discrimination against them and facilitating their integration into the labour market on an equal footing with the rest of the population, including in the Hanga Umurimo project and the Kuremera programme;

(g) Protect the labour rights of the Batwa, including in respect of access to employment and working conditions, step up the inquiries into discrimination against them at the workplace and increase their ability to bring complaints.

Participation by the Batwa in political and public affairs

16. The Committee takes note of the explanations provided by the State party, including the appointment by the Head of State of a senator from the Batwa community, but is of the view that these are too general and do not give a clear picture of the Batwa's participation in political and public affairs, despite the provisions of the Constitution (art. 80) on the representation of "historically marginalized groups" at both national and local levels (art. 5).

17. **Given that the Batwa are recognized as one of the "historically marginalized groups" in the country, the Committee recommends that the State party take special measures to establish a more ambitious, bold and dynamic policy in order to facilitate the effective integration of the Batwa into political and public affairs, including in positions in public administration, the police, the army and elected assemblies. The State party should also step up awareness-raising campaigns among the Batwa on the importance of their participation in political and public life, and among the rest of the population on the need for integration of the group into society.**

Land issues

18. The Committee takes note of the information provided by the State party concerning the eviction of the Batwa from the forest lands in which they lived and the explanations seeking to justify why they have not been compensated. The Committee also takes note of the information on the free housing programmes set up for the Batwa and the efforts made to integrate them into the rest of the population. However, the Committee remains concerned at the fact that the forced eviction of the Batwa from their traditional lands in order to create and develop national parks, which may have contributed to the decline in their population, has seriously disrupted their traditional way of life, since it prevents them from engaging in income-generating activities and has increased their poverty. Moreover, the Committee notes with concern the absence of appropriate measures to ensure the full integration of the Batwa, such as the allocation of land to compensate them for the lands that they have lost (art. 5).

19. **The Committee reiterates its recommendation that the State party consider putting in place specific measures, in consultation and agreement with the Batwa, whereby those who so wish are provided with plots of land, so that they can engage in income-generating activities. The Committee emphasizes that such measures are necessary to end the decline in the Batwa population, to promote their integration into the rest of society and to reduce their poverty.**

Situation of refugees and asylum seekers

20. While taking note of the information provided by the State party, the Committee is concerned at information to the effect that: (a) Burundian refugees may be relocated to third countries; (b) some requests for asylum lodged by Eritreans and South Sudanese with the

Directorate General of Immigration and Emigration have not been transmitted immediately to the Refugee Status Determination Committee of Rwanda, despite the 15-day time limit on asylum applications set by the law of the State party, which could well expose them to the risk of refoulement; (c) the overcrowding in refugee camps means that the space available for each refugee is reduced, as a result of which there have been some cases of sexual violence and child abuse; (d) some refugee children have difficulty in gaining full access to secondary education, owing to lack of space and the high cost of educational materials; (e) there are obstacles preventing some refugees from obtaining effective access to the health system established by the State party; and (f) refugees are not being made aware of the law on nationality (art. 5).

21. **The Committee recommends that the State party take the necessary measures to ensure that:**

(a) Burundian refugees are not relocated to third countries without their consent;

(b) Asylum applications prepared and lodged with the Directorate General of Immigration and Emigration are transmitted to the Refugee Status Determination Committee within the time limit provided for by the law on asylum and are processed by the Directorate, in order to eliminate any obstacle to the lodging and consideration of such requests;

(c) Consideration will be given to extending the area set aside for refugee camps in order to reduce overcrowding and the lack of privacy, which can lead to sexual violence and child abuse;

(d) Any obstacle that may, in practice, prevent refugee children from gaining effective access to secondary education is removed and refugees are not prevented from obtaining access to health care;

(e) Awareness-raising campaigns concerning the possibility of obtaining Rwandan nationality are organized among refugees and asylum seekers, so that those eligible can put themselves forward, and any obstacle that may exist in practice to the effectiveness of such a process is removed.

Access to effective remedies and provision of data relating to the application of article 6

22. The Committee notes that the State party has not provided information concerning complaints, prosecutions, sanctions or compensation in cases of racial discrimination, including discrimination in employment, handled by the courts, the Ombudsman and the National Human Rights Commission. While noting the State party's comments about equal access to justice for all and the measures put in place, including legal assistance, the Committee remains concerned at reports that the Batwa do not always enjoy equal access to justice (arts. 5 and 6).

23. **Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee again reminds the State party that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social disapproval or reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee therefore recommends that the State party increase its efforts to disseminate the Convention among the population and continue to train officials in the application of the law to the provisions of the Convention and put in place a system to register and collect data relating to complaints, prosecutions,**

sanctions and compensation in cases of racial discrimination, including discrimination in employment, brought before the courts and other appellate bodies and addressed by them. The Committee also recommends that the State party ensure that complaints of racial discrimination are properly registered and that, where appropriate, they should be subject to prosecution, sanctions and compensation. The Committee recommends lastly that the State party take all necessary steps to facilitate the access of the Batwa to justice, to disseminate information on legislation relating to racial discrimination, in particular among the Batwa, and to inform the latter of all the legal remedies available to them and of the possibility of obtaining legal assistance.

D. Other recommendations

Ratification of other instruments

24. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying the international human rights instruments that it has not yet ratified, particularly those with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

Follow-up to the Durban Declaration and Programme of Action

25. **In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when incorporating the provisions of the Convention into its domestic legislation, the State party take into consideration the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures adopted to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

26. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests the State party to include in its next report precise information on the specific measures adopted in this regard, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Dialogue with civil society

27. **The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, when preparing its next periodic report and providing follow-up to the present concluding observations.**

Amendment to article 8 of the Convention

28. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Declaration under article 14 of the Convention

29. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

Follow-up to the present concluding observations

30. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its implementation of the recommendations contained in paragraphs 13 and 21 (a), (b), (c) and (d) above.

Paragraphs of particular importance

31. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 15, 19 and 23 above and requests the State party to provide detailed information in its next periodic report on the specific measures taken to implement those recommendations.

Dissemination of information

32. The Committee recommends that the State party's reports be made readily available to the general public as soon as they are submitted and that the Committee's concluding observations with respect to those reports be similarly publicized in the official languages.

Preparation of the next periodic report

33. The Committee recommends that the State party submit its combined twenty-first and twenty-second periodic reports in a single document by 16 May 2020, taking into account the treaty-specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.